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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,472	02/26/2002	Christer O. Andreasson	263/291	4874

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EXAMINER	
FUREMAN, JARED	

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/085,472	ANDREASSON ET AL.	
	Examin r	Art Unit	
	Jared J. Fureman	2876	

-- The MAILING DATE of this communication app ars on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 January 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 14-39* is/are pending in the application.

4a) Of the above claim(s) *28-39* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 14-27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Receipt is acknowledged of the amendment, filed on 1/12/2004, which has been entered in the file. Claims 1-11 and 14-39 are pending.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

   I. Claims 1-11 and 14-27, drawn to an apparatus and method for monitoring medical products stored in a medication dispensing unit, classified in class 235, subclass 385.

   II. Claims 28-39, drawn to a system for tracking and monitoring medical products within a healthcare facility, classified in class 700, subclass 241.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Group I and Group II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination is directed to tracking and monitoring medical products within a healthcare facility. The subcombination has separate utility such as monitoring medical products stored in a medication dispensing unit outside of a healthcare facility.

3. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Newly submitted claims 28-39 (Group II) are directed to an invention that is independent or distinct from the invention originally claimed (Group I, claims 1-11 and 14-27) for the reasons given above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 28-39 have been withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 11 and 14-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Wan et al (US 6,539,281 B2).

Wan et al teaches an apparatus and method for tracking/monitoring medical products (medication 418), each of the medical products having a Radio Frequency Identification (RFID) tag (label 420) uniquely associated therewith, the apparatus comprising: a casing/medication dispensing unit (cabinet 200) comprising a compartment (medication storage area 414) for receiving one or more medical products therein; a reader (sensor 422) for reading the RFID tags associated with the medical products in the compartment; and a processor (computer 204) coupled to the reader for receiving and processing readings of the RFID tags in the compartment to identify the medical products in the compartment; wherein the processor identifies a medical product removed from the compartment by determining a difference between readings of the RFID tags in the compartment taken before and after the medical product is removed from the compartment (steps 602 and 604 or 702 and 704); identifying a patient (identify user, see step 700 of figure 7); wherein the processor verifies that the medical product removed from the compartment is authorized to be removed by comparing a product identifier associated with the RFID tag of the removed medical product to a product identifier of a medical product authorized to be removed from the

compartment (authorized for a specific user, for example, see step 706 of figure 7); wherein the product identifier comprises a product name (the use of a tag/label suggests the use of a name); further comprising a display (display 202 or 402) coupled to the processor, and wherein the processor displays a mismatch notification on the display when the processor detects a mismatch between the product identifier read from the RFID tag of the removed medical product and the product identifier of the medical product authorized to be removed (step 708 in figure 7, for example); wherein the mismatch notification comprises the product identifier read from the RFID tag of the removed medical product and the product identifier of the medical authorized to be removed; wherein the apparatus includes a single reader for reading the RFID tags of all medical products in the casing (see column 7, lines 28-30); wherein the casing comprises a plurality of compartments (different shelves within the medication storage area 414, for example, see figure 4), and wherein the reader comprises a plurality of readers for reading the RFID tags of medical products in respective compartments (figure 4 shows a plurality of readers 422); further comprising an input device (camera 406 for facial recognition, or fingerprint detection equipment 426, for example) coupled to the processor for identifying a patient to be associated with one or more medical products being removed from the compartment; further comprising a return compartment for returning unused medical products, and a reader for reading an RFID tag of any returned medical product placed in the return compartment, the processor coupled to the reader for identifying the returned medical product (unused medication may be returned to the compartment(s) and the return will be detected by sensors 422

and 424); sending a notice that the intended patient did not receive the returned medical product (for example, the weight sensor 424 will detect that the amount of medication did not change, and send a message to the computer 204 indicating the amount of medication remaining); further comprising transmitting an inventory notice from the dispensing unit when a quantity of RFID tags stored within the dispensing unit falls below a threshold (steps 710 and 711 of figure 7); (see figures 2-7, column 1 line 62 - column 2 line 15, column 2 line 37 - column 3 line 5, column 3 line 30 - column 4 line 5, column 4 lines 19-26, column 5 line 21 - column 6 line 5, column 6 lines 24-67, column 7 line 9 - column 9 line 18).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wan et al in view of McGrady (US 6,470,234).

The teachings of Wan et al have been discussed above.

Wan et al fails to teach the casing comprising a plurality of lockable drawers and the medical products being stored in and removed from the drawers.

McGrady teaches that it is desirable to store narcotics and other restricted items in lockable drawers, and provide access to the drawers only when a set of predetermined conditions are satisfied (see column 16, lines 12-24).

In view of McGrady's teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the compartments, as taught by Wan et al, with a plurality of lockable drawers, in order to restrict access to the medical products, thereby increasing the safety/security of the apparatus by preventing access to the medical products by unauthorized persons.

Response to Arguments

5. Applicant's arguments with respect to claims 1-10, with respect to the casing having a plurality of lockable drawers (see page 15, of the amendment filed on 1/12/2004) have been considered but are moot in view of the new ground(s) of rejection. As discussed above, McGrady teaches a casing having a plurality of lockable drawers for storing medical products.

6. Applicant's arguments filed 1/12/2004 have been fully considered but they are not persuasive.

In response to applicant's argument that Wan et al does not teach the processor determining the difference between readings of the RFID tags before and after a medical product is removed (see page 15, of the amendment filed on 1/12/2004), Wan et al teaches a processor (computer 204) connected to a reader (radio frequency receiver 302) for reading RFID tags on medical products (see figure 3 and column 6 lines 24-44). Wan et al teaches the medical products being automatically identified (step 602 or 702), and the apparatus identifies removed medical product items (step 604 or 704). Since Wan et al teaches that the medical products can be identified by reading an RFID tag, the apparatus automatically identifies the medical products, and

automatically determines which medical product has been removed, this suggests to one of ordinary skill in the art that the apparatus determines which medical product has been removed by determining which medical products are can still be identified (which RFID tags can still be read, for example). Thus, to one of ordinary skill in the art at the time of the invention, Wan et al suggests the processor determining the difference between readings of the RFID tags before and after a medical product is removed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Andreasson et al (US 20040046020), Bowers et al (US 6,693,539), Haitin et al (US 2004/0054436), Omura et al (US 6,684,126), Frederick et al (US 6,658,322), and Haitin et al (US 6,636,780) all teach apparatus and methods for tracking medical products.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (571) 272-2391. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jared J. Fureman
Examiner
Art Unit 2876

April 19, 2004